

ORDINANCE NO. 07-110

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW AN OVERSIZED ACCESSORY BUILDING WITH 560 SQUARE FEET IN TOTAL FLOOR AREA, WHERE A MAXIMUM OF 500 FEET IS ALLOWED, CONTRA TO HIALEAH CODE § 98-1666. **PROPERTY LOCATED AT 544 EAST 63 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of November 14, 2007 recommended approval of this ordinance; and

WHEREAS, the petitioner proffers a declaration of restrictive covenants offering to remove the bathroom in the accessory building upon future sale of the residence and further representing that the accessory building would never be used as a dwelling unit, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The below-described property is hereby granted a variance permit to allow an oversized accessory building with 560 square feet in total floor area, where a maximum of 500 square feet is allowed, contra to Hialeah Code § 98-1666, which provides in pertinent part: “ . . . in no event shall the accessory structure of building exceed 500 square feet in floor area.” Property located at 544 East 63 Street, Hialeah,

Miami-Dade County, Florida, zoned R-1 (One Family District), and legally described as follows:

WEST 60 FEET OF THE EAST 356 FEET OF THE NORTH ONE-HALF OF TRACT 7, REVISED PLAT OF GRATIGNY HEIGHTS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 36, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

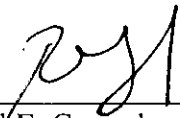
PASSED and ADOPTED this 11th day of December, 2007.



Esteban Bovo
Council President

Attest:

Approved on this 12 day of December, 2007.



Rafael E. Granado, City Clerk



Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".

This is corrected Ordinance 07-110. A scrivener's error was reported at the Council meeting of February 26, 2008.

Prepared by and return to:

City of Hialeah
Planning Division
501 Palm Avenue, Second Floor
Hialeah, FL 33010

**DECLARATION OF RESTRICTIVE COVENANTS
(Individual)**

(I) (WE), Dagoberto Rodriguez, Caridad Rodriguez, Wilfredo Alfonso & Yvette Alfonso

Being the owner(s) of lands described herein:

The West 60 feet of the East 365 feet of the north one-half of Tract 7, Revised Plat of Gratigny Heights, according to the plat thereof, as recorded in Plat Book 35, Page 36, of the Public Records of Miami-Dade County, Florida.

The street property address is 544 East 63 Street, Hialeah, FL 33013

The folio number is 04-2132-012-0700,

make the following Declaration of Restrictive covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The bathroom in the accessory building will be removed upon future sale of the residence and the accessory building will never be used as a dwelling unit.
2. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
3. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

07-110

IN WITNESS WHEREOF, (I) we have hereunto set out hands and seals at
501 Palm Ave, Hialeah, FL this 27 day of November 2007
(location)

Signed, sealed and delivered in the
presence of:

William Grodnick
Witness (2 Witnesses
required)

Typed/Printed Name William Grodnick

Witness: Lia M. Garcia
Typed/Printed Name LIA M. GARCIA

~~Witness (2 Witnesses
required
Typed/Printed Name~~

Dagoberto Rodriguez
Owner

Caridad Rodriguez
Owner

Typed/Printed Name Dagoberto Rodriguez and
Caridad Rodriguez

Wilfredo Alfonso
Co-Owner

Yvette Alfonso
Co-Owner

Typed/Printed Name Wilfredo Alfonso and
Yvette Alfonso

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this 27 day of November 2007, before me, an officer duly
authorized in the State of Florida and in County of Miami-Dade, to take acknowledgments, personally
appeared Dagoberto Rodriguez & Caridad Rodriguez and Wilfredo Alfonso & Yvette Alfonso
To me known to be the
person(s) described herein and who executed the foregoing instrument, and he/she/they acknowledged before
me, under oath, that he/she/they executed same.

WITNESS my hand and official seal this 27 day of Nov, 2007

Rafael E. Granado
Notary Public, State of Florida

RAFAEL E. GRANADO
(Name of Notary Public: Print, Stamp, or Type
as Commissioned)



RAFAEL E. GRANADO
MY COMMISSION # DD 429764
EXPIRES: September 16, 2009
Bonded Thru Budget Notary Services

☐ Personally known to me, or
☒ Produced identification:

FLA DRIVER LICENSE
Identification produced:

☒ Did take an oath
☐ Did NOT take an oath

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RAFAEL E. GRANADO
MY COMMISSION # DD 429764
EXPIRES: September 16, 2009
Bonded Thru Budget Notary Services